The applicant is reminded its duty to disclose any and all pertinent patents known. The applicant has several patents as well as several pending cases, yet the applicant has failed to cite any references in this particular application.

Status of the claims is as follows:

Claims 1-18 have been cancelled; and

Claims 19-57 are herein addressed below.

The following objections to the claims are as follows:

In claim 25, line 3, there is a lack of antecedent basis for “the T-shaped head”,

In claim 35, line 4, there is a lack of antecedent basis for "the screen receiving pocket", and

In claims 42, and 43, line 2, is “a head” the same head that is recited in claim 41, line 26?

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 19-57 are rejected on the ground of nonstatutory double patenting over claims 1-5, and 7-8 of U. S. Patent No. 6,446,696 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: a retractable biased roller assembly having a T-shaped head attached along the leading edge of the roller assembly wherein the roller assembly is mounted within a framed opening having guides along a top and bottom portion of the opening.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claims 19-57 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-25 of copending Application No. 11/826,222. This is a

provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a retractable biased roller assembly having a T-shaped head attached along the leading edge of the roller assembly wherein the roller assembly is mounted within a framed opening having guides along a top and bottom portion of the opening.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19-32, 34-37, 39, 41-48, 51-54, and 56 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (3,842,890) in view of Thumann (5,505,244). Kramer (3,842,890) discloses an assembly (140) comprising a frame (160,

146, 168, and 174) having four sides including two jambs (160 and 168), a header (146 having a guide track, see figures 8 and 10)), and a threshold (44) having a guide track (see figures 1 and 9), a retractable roll panel (48) mounted within a housing (36 of one of the jambs (160 and 168), a handle (90) mounted to a leading edge of the retractable roll panel (48), and a latch assembly (92) for latching the retractable roll panel (48) in a closed position.

Kramer (3,842,890) fails to disclose the following: a T-shaped head mounted to the leading edge of the retractable roll mesh panel, a spring biased roller, and a removable cover.

Thumann ('244) discloses a retractable screen assembly comprising a retractable mesh screen panel (28) being spring biased (94), a resilient T-shaped head (100) mounted to the leading edge, and a removable cover (50, via screw (70). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Kramer ('890) with a spring biased (94) roller assembly having a resilient T-shaped head (100) mounted to the leading edge of the panel and a removable cover as taught by Thumann ('244) since a spring biased panel allows the panel to be easily moved between open and closed positions. It would have been further obvious to one or ordinary skill in the art at the time of the invention to provide Kramer ('890) with a T-shaped head attached to the leading edge as taught by Thumann ('244) since a T-shaped head enhances the latch and catch assembly for movement between open and closed positions. Furthermore, It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Kramer ('890) with a removable housing as

taught by Thumann ('244) since a removable housing allows one to easily service the spring biased roller assembly.

With respect to claims 26, 27, 30, 31, 36, 37, 47, 48, 53, and 54, the method/product carries little to no patentable weight in apparatus claims since the elements cited above are capable of being attached via any assembly method, including radio frequency welding.[see M.P.E.P.]

Claims 32, 33, 38, 40, 49, 50, 55, and 57 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (3,842,890) and Thumann (5,505,244) as applied to claim19 above, and further in view of Kersavage (4,651,479). All of the elements of the instant invention are discussed in detail above except providing the screening to be formed of vinyl coated/fiberglass. Kersavage ('479) discloses screening formed of vinyl coated fiberglass. it would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the panel of Kramer ('890) to be formed of fiberglass or vinyl coated substrate since fiberglass or vinyl coated substrate is lighter and cheaper to manufacture and metal screen mesh; furthermore, fiberglass screen mesh, vinyl coated substrate, and/or metal screen meshes' are art equivalent.

Applicant's arguments with respect to claims 19-57 have been considered but are not deemed persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jerry Redman
Primary Examiner
Art Unit 3634

/Jerry Redman/
Primary Examiner, Art Unit 3634